

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Lifeline and Link Up Reform and Modernization)	WC Docket No. 11-42
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
)	WC Docket No. 03-109
Lifeline and Link Up)	

**COMMENTS OF BUDGET PREPAY,[®] INC., GREATCALL, INC.,
AND PR WIRELESS, INC. d/b/a OPEN MOBILE**

Budget PrePay[®], Inc. (“Budget PrePay”), GreatCall, Inc. (“GreatCall”) and PR Wireless Inc. d/b/a Open Mobile (“PR Wireless”) (collectively referred to as “the Companies”), by counsel, and pursuant to the Federal Communication Commission’s (“FCC” or “Commission”) Notice released August 5, 2011,¹ hereby submit comments in the above-referenced proceedings.

I. BROADBAND PILOT PROGRAM

The Companies support the creation of a pilot program to gauge the effectiveness of mechanisms aimed at increasing broadband subscribership. Such a program should not require the establishment of special eligibility criteria. Consistent with their previous comments, the Companies believe the existing Lifeline eligibility criteria need to be made more permissive, and should also be used for eligibility for discounted broadband service. A broadband Lifeline pilot program should ensure that discounts are provided on a competitively and technologically neutral basis, and in a manner that does not require service providers to unbundle broadband from other services such as voice service or otherwise alter their rate structures.

¹ *Further Inquiry into Four Issues in the Universal Service Lifeline/Link Up Reform and Modernization Proceeding*, Public Notice, WC Docket Nos. 11-42, 03-109; CC Docket No. 96-45 (rel. Aug. 5, 2011)(“Notice”).

A. Consumer Eligibility.

The Companies concur with the Benton Foundation that more permissive eligibility requirements are needed than those provided under the current rules. The Companies specifically support the Joint Board's recommendation to raise the income threshold from 135% to 150% of the Federal Poverty Guidelines. Under this threshold, the qualifying income level for a family of four or five would be \$40,000. The Companies believe that this more permissive income level, as well as a minimum list of qualifying programs and services, should be mandated uniformly in all states.²

B. Barriers to Consumer Participation.

The Companies support NARUC's recommendation that broadband Lifeline pilot program participants should not be required to change providers or take bundled voice and broadband services. In today's free market, consumers are able to choose their telephone service provider, and if they wish to take broadband service from a different company, they are free to do so. The broadband pilot program should reflect this marketplace reality. Consistent with this goal, participating providers should not be required to provide broadband services on an unbundled basis. Carriers have developed bundled voice and data service plans in response to consumer demand, and any unbundling requirement would only force carriers to create and maintain plans that consumers do not necessarily desire.

In addition, the Commission should take care to adopt a definition of "broadband" that is flexible enough to account for the variety of demographic, economic, and physical characteristics of communities around the country. For example, using the "4 Mbps downstream/1 Mbps upstream" definition set forth in the National Broadband Plan would fail to recognize the

² While states should have the ability to add qualifying programs and services that would allow residents to qualify for Lifeline and Link Up, no state should be permitted to exclude programs and services that, at the federal level, would qualify one for Lifeline and Link Up.

realities of insular areas, tribal lands, or mountainous terrain where it is particularly difficult to provision service at the required speeds. It would also ignore the demographics of areas, such as Puerto Rico, where there is virtually zero penetration at those speeds.³ As a safeguard, the Commission should allow companies to participate in the pilot program on a voluntary and not a mandatory basis.

II. ONE-PER-HOUSEHOLD RULE

A. Defining “Household” or “Residence”.

The Commission has requested comment on the threshold issue of “whether a one-per-household or one-per-family rule would provide an administratively feasible approach to providing Lifeline/Link Up support[.]”⁴ As the Companies and other commenters have previously argued, the adoption of a “one-per-household” rule makes no sense in an age where wireless telephone service has become essential, not a mere convenience.⁵ In a recently released Pew survey, 40% of cell owners said they had found themselves in an emergency situation in which having their phone with them helped.⁶ The increasing popularity of family share plans⁷

³ Based on the Commission’s latest Internet Access Status Report, only 35% of households in Puerto Rico have Internet access. *See* Internet Access Services: Status as of December 31, 2009 (Indust. Analysis Div. Wireline Comp. Bur., December 2010) at Tables 16, 20. According to the recent SpeedMatters study released by the Communications Workers of America, only 9% of Puerto Rico residents with Internet access can access that service at broadband speeds – that is, at least 4 Mbps downstream – compared to roughly half of residential subscribers in the U.S. overall. *Speed Matters: Affordable High-Speed Internet for America* (Nov. 2010) at 47, available online at <http://www.speedmatters.org/content/resources/>.

⁴ *See* Notice at 4.

⁵ *See, e.g.*, New York Public Service Commission Comments at 5 (filed April 21, 2011) (“Access to emergency services may require multiple wireless phones for family members, so that when one individual leaves the home, the other members of the household have access to their own wireless phones to contact emergency services or to maintain their own important family communications during an emergency.”); Open Access Connections et al. Comments at 6; Benton Foundation Comments at 4; Alaska Telephone Association Comments at 2; Consumer Cellular Comments at 17; AT&T Comments at 16-19; Verizon Comments at 9.

⁶ “Americans and Their Cell Phones,” Pew Internet & American Life Project (Aug. 15, 2011), available online at <http://pewinternet.org/Reports/2011/Cell-Phones.aspx>.

and the availability of public safety communications capabilities demonstrates that a phone is now essential for *people wherever they are* and not simply for use in their homes. The Companies therefore take this opportunity to, once again, urge the Commission to refrain from adopting such a rule, and instead clarify that one Lifeline/Link Up discount may be provided per eligible adult.

1. Whether the definition should mirror that used in other government programs.

If the Commission nonetheless determines that a one-per-household restriction is appropriate, the term “household” should be defined in a way that is not dependent on a unique mailing address of a particular subscriber. For instance, the Companies would be inclined to support the use of the LIHEAP definition of “household” as “[a]ny individual or group of individuals who are living together as one economic unit.” As the Benton Foundation noted in its comments in April, this definition is consistent with the FCC’s income eligibility rule, which is based on “all income received by all members of the household.”⁸ Alternatively, the Commission could use the Census Bureau definition, which essentially defines household as all of the persons occupying a housing unit consisting of separate living quarters.⁹

Either the LIHEAP or Census definition of “household” is more administratively workable than one that is based on postal address. Defining “household” based on one’s postal address would have the effect of disqualifying outright many qualified individuals who are in separate households that have the same postal address. This situation is very common in rural

⁷ According to the studies cited in the Commission’s most recent CMRS Competition Report, 66-67% of mobile wireless subscribers were family plan members in 2009, up from 35% in 2004. *See Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and analysis of Competitive Market Conditions With Respect to Mobile Wireless, Including Commercial Mobile Services, Fifteenth Report*, WT Docket No. 10-133 (rel. June 27, 2011) ¶ 167 (“*Fifteenth CMRS Competition Report*”).

⁸ 47 C.F.R. § 54.400(f).

⁹ *See Notice* at n.25.

areas, where individual housing units often lack house numbers or any postal address at all. In order to prevent this unintended result, carriers, consumers or both, would be required to provide evidence that there are separate households notwithstanding the single address.

This is essentially what happens today, under the Commission's *de facto* one-per-household policy: Universal Service Administrative Company ("USAC") auditors "red flag" all instances in which an audited eligible telecommunications carrier ("ETC") has more than one Lifeline discount with the same billing address, and the ETC is called upon to "disprove" the auditor's default conclusion that more than one discount has been provided to the same household. By relying on individual investigations by ETCs, a definition based on postal address is wasteful and burdensome.¹⁰

With automatic enrollment and centralized administration, a definition of household that is based on the LIHEAP definition – or a similar definition used by another government program – would be simple to administer. For example, if AT&T's PIN-based system of centralized administration is adopted, a unique numerical identifier would be assigned to each qualifying consumer by the state agency that is selected to administer Lifeline.¹¹ The consumer could then use the PIN to obtain Lifeline service from the ETC of his or her choice. USAC, or another entity selected to administer the database, would determine whether a Lifeline discount is already being provided to the same household. A subsequent applicant from the same household would therefore be denied a PIN and, therefore, denied Lifeline service.

¹⁰ If a customer changes Lifeline providers and the successor provider is audited, then the new provider might have to undertake the same investigation already performed by its predecessor. Centralized administration would avoid the need to reinvent the wheel as the administering agency could simply query the database to verify that a household does not receive more than one Lifeline discount.

¹¹ See AT&T Comments at 11-15 (filed April 21, 2011).

2. TracFone's procedures.

Centralized administration would similarly render unnecessary the burdensome and costly procedures proposed by TracFone for verifying the living situation of Lifeline applicants.¹² TracFone, a wholly-owned subsidiary of a Fortune 500 company, clearly has the staff and other resources to perform thousands of individual inquiries into consumer living arrangements. But most providers of Lifeline are significantly smaller and lack the human resources and financial capital to undertake those procedures. Accordingly, the procedures described by TracFone should not be mandated.

With centralized administration, USAC, or another entity selected to maintain and administer the database, would be a more appropriate entity to obtain information from consumers and group living facilities. The database administrator would determine whether an individual applicant is in a household that already receives Lifeline service. Such a system would obviate the complicated and burdensome procedures proposed by TracFone.

In the absence of centralized administration – and perhaps during the interim period during which the national database is created and state agencies are selected and prepared for their role in centralized administration – ETCs should be permitted to utilize reasonable procedures to eliminate duplicate Lifeline subsidies, including those described by TracFone.

3. MFY Legal Services proposal to use room/bed numbers as unique identifiers.

The Companies support the proposal to use room numbers and, if applicable, bed numbers as a unique identifier for Lifeline customers in group living facilities, including nursing homes, assisted living facilities, and homeless shelters. However, to avoid undue administrative burdens on ETCs, this approach should only be used in conjunction with centralized

¹² See Letter from Mitchell F. Brecher, Greenberg Traurig, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 03-109, 11-42, CC Docket No. 96-45 (filed June 1, 2011).

administration. If centralized administration is implemented, the group home owner or administrator would provide the numbering information to USAC or other entity selected to administer the Lifeline database. To minimize the risk of duplicate numbers being provided, the group home owner or administrator, and not the individual resident, should bear the responsibility for assigning numbers in the event rooms or beds are not numbered.

4. Exceptions from “One-Per-Household” Rule: Potential Use of NTIA Rule as Model.

The Companies believe that the NTIA waivers adopted in the context of coupons for digital set-top converter boxes can be a useful model for the Lifeline context. In the event the Commission adopts a “one-per-household” rule, a set of procedures like those adopted by the NTIA for group homes and for customers with P.O. Box addresses would be reasonable. In the group home context, the NTIA procedures provide that either (1) the individual resident may apply for a coupon by providing self-identifying information and the name and address of the group living facility; or (2) the group home administrator may apply on the resident’s behalf. In either case, this is an easily administered approach that avoids the need for assigning individual numbers to rooms or beds. Any such set of procedures should also be extended to homeless shelters, since either residents or shelter administrators could follow the required steps in the same manner as in the nursing home context.

III. POTENTIAL RESTRICTIONS ON LINK UP

A. Sprint’s Comments Regarding Declining Cost of Initiating Service.

As stated previously in their joint comments,¹³ the Companies support the Commission’s proposal to define Link Up as “the ordinary initiation charge that an ETC routinely imposes on

¹³ See Joint Comments of Budget, GreatCall and PR Wireless at p. 8 (filed April 21, 2011).

all customers within a state.”¹⁴ Beyond establishing this definition, the Commission should decline to alter the current levels of Link Up support.

The basis for the FCC’s request for comment on this issue is the proposal by Sprint to reduce or eliminate Link Up. Sprint – which has primarily focused on receiving high-cost support and has historically demonstrated scant participation in the Low Income program¹⁵ – offers no justification for its proposal other than to make the conclusory statement that “the ever-increasing level of automation has reduced the cost of initiating service[.]”¹⁶ Sprint offers no evidence in support of this statement, nor does it explain how a purported *reduction* in cost could justify the *elimination* of Link Up altogether.

In fact, companies charge service activation fees because they continue to incur significant costs during the process of initiating service. Though the specific types of costs vary by company, these may include, for example, activation fees from the underlying provider, address validation, cost of Lifeline recordkeeping and certification, setting up the customer in the company’s call center software, and other customary costs associated with initiating wireless service to low-income consumers.

Finally, Sprint speculates about a lack of good faith among its competitors, stating: “it appears that some ETCs assess service activation charges more as a means of maximizing their low income USF than to recover the actual cost of initiating service.”¹⁷ Again, Sprint offers no evidence supporting this allegation. As discussed above, companies incur significant costs when

¹⁴ *Lifeline NPRM* at ¶ 73 (to be codified at 47 CFR § 54.400(e)).

¹⁵ See Universal Service Administrative Company, Low Income Appendix LI05 - Annual Low Income Support Amounts, 2008 through 1Q2011, available at <http://www.usac.org/about/governance/fcc-filings/2011/quarter-4.aspx>.

¹⁶ Sprint Comments at 9.

¹⁷ *Id.* at 9-10.

signing up new customers, and Link Up is needed to offset a portion of those costs in order to make service more affordable to low-income consumers. It would not be unreasonable to conclude that by “some ETCs” Sprint means its competitors who – unlike Sprint – have shown a sincere interest in making telecommunications service available to low-income consumers as required under the Act.

B. Limiting Reimbursement to “Costs Actually Incurred”.

The Notice also seeks comment on whether Link Up should be limited to “service initiations that involve the physical installation of facilities by the provider at the consumer’s residence.”¹⁸ As discussed in the preceding subsection (a), there are significant costs involved in the customer activation process, and companies are legitimately reimbursed for the portion that is discounted under the existing rules. Limiting Link Up to actual facilities/connection costs would severely harm wireless and wireline Lifeline providers, particularly small to medium-size companies that would not be able to “eat” the costs of low-income customer activation.

Accordingly, the Commission should reject the proposal to limit the scope of Link Up support to facilities construction. To the extent a company’s activation fee covers costs involved in building out facilities to reach the customer’s premises, Link Up should continue to reimburse such costs, but not to the exclusion of other service initiation costs.

¹⁸ Notice at 6.

IV. CONCLUSION

The Companies respectfully request that the Commission adopt the recommendations set forth above.

Respectfully submitted,

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